

40009-0002

10/798,619

REMARKS

This is a full and timely response to the non-final Official Action mailed September 20, 2005. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

By the forgoing amendment, the specification and various claims have been amended. Additionally, original claims 19 and 20 have been cancelled without prejudice or disclaimer. Thus, claims 1-18 are currently pending for further action.

Allowable Subject Matter:

In the recent Office Action, the Examiner indicated the presence of allowable subject matter in claims 5 and 10. Applicant wishes to thank the Examiner for this identification of allowable subject matter.

Accordingly, claim 10 has been amended herein and rewritten as an independent claim. Therefore, following entry of this amendment, claim 10 should be in condition for immediate allowance based on the Examiner's finding therein of allowable subject matter.

Claim Objection:

Claim 15 was objected to due to a typographical error. This error has been corrected in the present amendment. Thus, the objection to claim 15 should now be reconsidered and withdrawn.

40009-0002

10/798,619

35 U.S.C. § 112, second paragraph:

The Office Action rejected claim 15 under 35 U.S.C. § 112, second paragraph, as being definite. According to the Office Action, it is not clear what applicant intends to claim in claim 15. Applicant respectfully disagrees.

Claim 13 recites that "said vibratory member comprises a base and a flexible extension, wherein said flexible extension is split into two or more portions," and claim 15 recites that "a corner of one or more of said portions is rounded." This subject matter is fully described in Applicant's original specification at, for example, paragraph 0036, and is illustrated in Fig. 7. According to Applicant's specification, paragraph 0036, "[t]he corners or edges of the split portions of the extension (102-1) may be tapered and rounded as shown in Fig. 7."

Read in light of the text and figures of Applicant's specification, as is should be, there is nothing indefinite or unclear about claim 15. The flexible extension is split into to two or more portions that may each have a rounded corner or corners as shown in Fig. 7. Consequently, the rejection of claim 15 under 35 U.S.C. § 112, second paragraph, should be reconsidered and withdrawn.

Prior Art:

Claims 1, 12, 16, 19 and 20 were rejected as anticipated under 35 U.S.C. § 102(b) or (e) by either of U.S. Patent No. 2,874,514 to Munro ("Munro") or U.S. Patent No. 6,234,864 to Onori ("Onori"). For at least the following reasons, these rejections are respectfully traversed.

40009-0002

10/798,619

Claim 16 recites:

*A packaged kit comprising:*

an accessory for a vehicle having a wheel with spokes, said accessory comprising;

a vibratory member configured to be vibrated by the spokes of a rotating wheel; and

a main body supporting said vibratory member on said vehicle, said main body further comprising an identity plate; and

a variety of identification indicia or decorative elements that can be selectively disposed on said identity plate.

(emphasis added).

In contrast neither Munro nor Onori teach or suggest the claimed packaged kit that includes an identity plate and "a variety of identification indicia or decorative elements that can be selectively disposed on said identity plate." Moreover, the Office Action does not explain how or where Munro or Onori teach or suggest the subject matter of claim 16.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 16 and its dependent claims should be reconsidered and withdrawn.

In addition to the rejections in view of Munro and Onori mentioned above, claim 1 was also rejected along with claims 4, 6 and 7 as anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,589,097 to Smith ("Smith"). Alternatively, claim 1, 8 and 13 were further rejected as anticipated under 35 U.S.C. § 102(e) by U.S. Patent App. Pub. No. 2004/0116045 to Coleman ("Coleman"). For at least the following reasons, these rejections are all respectfully traversed.

40009-0002

10/798,619

Claim1 now recites:

An accessory for a vehicle having a wheel with spokes, said accessory comprising:  
a vibratory member configured to be vibrated by the spokes of a rotating wheel; and  
a main body supporting said vibratory member on said vehicle, said main body further comprising an identity plate;  
*wherein said identity plate further comprises one or more panels bearing identification indicia or decorative elements, said panels being selectively and releasably attached to said main body such that the identification indicia or decorative elements on said vehicle can be changed by replacing a said panel attached to said main body without removing said main body from said vehicle.*  
(emphasis added).

In contrast, none of the cited prior art references teach or suggest the claimed accessory including an identity plate that "further comprises one or more panels bearing identification indicia or decorative elements, said panels being selectively and releasably attached to said main body such that the identification indicia or decorative elements on said vehicle can be changed by replacing a said panel attached to said main body without removing said main body from said vehicle."

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the various rejections of claim 1 should now be reconsidered and withdrawn.

Additionally, Applicant wishes to note that claim 1 recites the combination of "a vibratory member configured to be vibrated by the spokes of a rotating wheel; and a main body supporting said vibratory member on said vehicle, said main body further comprising an identity plate." This combination of a vibratory member and an identity plate is also recited in independent claim 16. As explained in Applicant's specification, "an identity plate is a

40009-0002

10/798,619

distinguishing feature that distinguishes the bicycle to which it is attached. ... *The identity plate, therefore, has a decorative or identification function beyond merely supporting a noise-making device.*" (emphasis added).

Neither Onori nor Smith teach or suggest the claimed combination of a vibratory member and an identity plate as claimed. With regard to Onori, the Office Action cites elements 25 and 26 as the claimed identity plate. (Action of 9/20/05, p. 3). In reality, as taught by Onori, elements 25 and 26 are not identity plates, but rather "handle portions" disposed at the proximal ends of clamp arms 21, 22. (Onori, col. 4, lines 57-65). Onori does not teach or suggest that these handle portions have any decorative or identification function, but are rather used merely to support a noise-making device on a bicycle. Thus, Onori fails to teach or suggest the identity plate of claim 1.

Similarly, the Office Action cites element 4a of Smith as being the claimed identity plate. (Action of 9/20/05, p. 3). According to Smith, element 4a is not an identity plate, but rather a "pipe mount" for securing the device to a bicycle's frame. (Smith, col. 4, lines 34-39). Thus, the pipe mount 4a is "merely supporting a noise-making device" and has no decorative or identification function. Smith does not teach or suggest that the pipe mount has any decorative or identification function. Thus, Smith, like Onori fails to teach or suggest the identity plate of claim 1.

Like Onori and Smith, Coleman also fails to teach or suggest the claimed identity plate. According to the Office Action, Coleman teaches an identity plate at element (38). (Action of 9/20/05, p. 4). However, according to Coleman, element (38) is an "enclosure" used to support a "sound-producing flapper." (Coleman, paragraph 0045). The "enclosure" is thus "merely supporting a noise-making device" and has no decorative or identification function.

40009-0002

10/798,619

Coleman does mention in paragraph 0056 that "graphic treatments" can be added to the surface of the device to enhance its appearance. However, merely decorating the noise device is clearly different from providing an identity "plate" that performs a decorative or identification function for the bicycle. Consequently, Coleman also fails to teach or suggest the identity plate of claim 1.

Claims 2, 3 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Munro and Coleman. Claims 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Munro and U.S. Patent No. 2,874,514 to Litwin. Claims 2, 3, 9, 11, 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the teachings of Coleman taken alone. These various rejections are respectfully traversed for at least the same reasons given above with respect to the inapplicability of the prior art to the independent claims of the application.

40009-0002

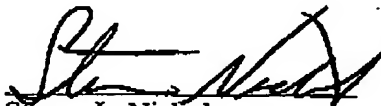
10/798,619

Conclusion:

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: 16 December 2005

  
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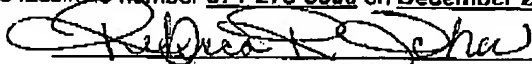
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I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number 571-273-8300 on December 20, 2005. Number of Pages: 17



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